

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN OVERSIGHT,
1030 15th Street NW, B255
Washington, DC 20005

Plaintiff,

v.

Case No. 19-912

U.S. DEPARTMENT OF COMMERCE,
1401 Constitution Avenue NW
Washington, DC 20230

U.S. DEPARTMENT OF EDUCATION,
400 Maryland Avenue SW
Washington, DC 20202

U.S. ENVIRONMENTAL PROTECTION AGENCY,
1200 Pennsylvania Avenue NW
Washington, DC 20460

U.S. DEPARTMENT OF JUSTICE,
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

U.S. DEPARTMENT OF HOMELAND SECURITY,
245 Murray Lane SW
Washington, DC 20528

U.S. CUSTOMS AND BORDER PROTECTION,
1300 Pennsylvania Avenue NW
Washington, DC 20229

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,
500 12th Street SW
Washington, DC 20536

U.S. CITIZENSHIP AND IMMIGRATION
SERVICES,
20 Massachusetts Avenue NW
Washington, DC 20001

U.S. DEPARTMENT OF THE INTERIOR,)
1849 C Street NW)
Washington, DC 20240)
)
U.S. DEPARTMENT OF HEALTH AND HUMAN)
SERVICES,)
200 Independence Avenue SW)
Washington, DC 20201)
)
ADMINISTRATION FOR CHILDREN)
AND FAMILIES,)
330 C Street SW)
Washington, DC 20201)
)
U.S. DEPARTMENT OF HOUSING)
AND URBAN DEVELOPMENT,)
451 7th Street NW)
Washington, DC 20410)
)
U.S. DEPARTMENT OF STATE,)
2201 C Street NW)
Washington, DC 20520)
)
U.S. DEPARTMENT OF THE TREASURY,)
1500 Pennsylvania Avenue NW)
Washington, DC 20220)
)
Defendants.)
)

COMPLAINT

1. Plaintiff American Oversight brings this action against fourteen executive branch agencies and divisions under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking declaratory and injunctive relief to compel compliance with the requirements of FOIA.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201, and 2202.

3. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

4. Because Defendants have failed to comply with the applicable time-limit provisions of the FOIA, American Oversight is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i) and is now entitled to judicial action enjoining Defendants from continuing to withhold agency records and ordering the production of agency records improperly withheld.

PARTIES

5. Plaintiff American Oversight is a nonpartisan, non-profit section 501(c)(3) organization primarily engaged in disseminating information to the public. American Oversight is committed to the promotion of transparency in government, the education of the public about government activities, and ensuring the accountability of government officials. Through research and FOIA requests, American Oversight uses the information it gathers, and its analysis of it, to educate the public about the activities and operations of the federal government through reports, published analyses, press releases, and other media. The organization is incorporated under the laws of the District of Columbia.

6. Defendant U.S. Department of Commerce (Commerce) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). Commerce has possession, custody, and control of the records that American Oversight seeks.

7. Defendant U.S. Department of Education (Education) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). Education has possession, custody, and control of the records that American Oversight seeks.

8. Defendant U.S. Environmental Protection Agency (EPA) is an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1) headquartered in Washington, DC. EPA has possession, custody, and control of the records that American Oversight seeks.

9. Defendant U.S. Department of Justice (DOJ) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). DOJ has possession, custody, and control of the records that American Oversight seeks.

10. Defendant U.S. Department of Homeland Security (DHS) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). DHS has possession, custody, and control of the records that American Oversight seeks.

11. Defendant U.S. Customs and Border Protection (CBP) is a component of DHS and is also headquartered in Washington, DC. CBP has possession, custody, and control of the records that American Oversight seeks.

12. Defendant U.S. Immigration and Customs Enforcement (ICE) is a component of DHS and is also headquartered in Washington, DC. ICE has possession, custody, and control of the records that American Oversight seeks.

13. Defendant U.S. Citizenship and Immigration Services (USCIS) is a component of DHS and is also headquartered in Washington, DC. USCIS has possession, custody, and control of the records that American Oversight seeks.

14. Defendant U.S. Department of the Interior (DOI) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). DOI has possession, custody, and control of the records that American Oversight seeks.

15. Defendant U.S. Department of Health and Human Services (HHS) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). HHS has possession, custody, and control of the records that American Oversight seeks.

16. Defendant Administration for Children and Families (ACF) is a component of HHS and is also headquartered in Washington, DC. ACF has possession, custody, and control of the records that American Oversight seeks.

17. Defendant U.S. Department of Housing and Urban Development (HUD) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). HUD has possession, custody, and control of the records that American Oversight seeks.

18. Defendant U.S. Department of State (State) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). State has possession, custody, and control of the records that American Oversight seeks.

19. Defendant U.S. Department of the Treasury (Treasury) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). Treasury has possession, custody, and control of the records that American Oversight seeks.

STATEMENT OF FACTS

20. Between October 17, 2018, and February 27, 2019, American Oversight submitted FOIA requests to fourteen different executive agencies and divisions thereof, seeking access to calendar entries maintained on behalf of certain, named agency political appointees. Each FOIA request is described below in further detail.

Commerce Calendars FOIA

21. On November 15, 2018, American Oversight submitted a FOIA request to Commerce seeking the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined Commerce through the date the search is conducted:
 - Wilbur Ross (January 1, 2018, through the date of the search)
 - Wendy Teramoto (January 1, 2018, through the date of the search)
 - Anyone who has served in the capacity of Deputy Chief of Staff, with the exception of Israel Hernandez
 - Karen Dunn Kelley (end date of search associated with FOIA tracking number DOC-IOS-2018-000206, through the date of the search)

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined Commerce through the date the search is conducted:
 - Eric Branstad (January 20, 2017, through the date of the search)
 - Todd Abrajano (January 20, 2017, through the date of the search)
 - Anyone who has served as White House Liaison since January 20, 2017

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

22. Commerce assigned the request tracking number DOC-IOS-2019-000247.

23. American Oversight has received no further communication from Commerce regarding the processing of its FOIA request.

Education Calendars FOIA

24. On October 17, 2018, American Oversight submitted a FOIA request to Education seeking the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below.
 - Betsy DeVos (June 15, 2018, through the date of the search)
 - Joshua Venable (June 15, 2018, through the date of the search)
 - Eric Ventimiglia ((June 20, 2018, through the date of the search)
 - Robert Eitel (June 15, 2018, through the date of the search)
 - Candice Jackson (June 15, 2018, through the date of the search)
 - Ebony Lee (June 15, 2018, through the date of the search)
 - Lee-Douglas Simmons (June 15, 2018, through the date of the search)
 - Mitchell Zais (May 16, 2018, through the date of the search)
 - Kenneth L. Marcus (June 7, 2018, through the date of the search)
 - Jason Botel (end date of search associated with FOIA request number 18-00235-F, through the date of the search)

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below.
 - James Manning (end date of search associated with FOIA request number 18-00235-F, through the date of the search)
 - Lynn Mahaffie (February 1, 2018, through the date of the search)
 - Wayne Johnson (end date of search associated with FOIA request number 18-00235-F, through the date of the search)
 - Anyone who has served as the Assistant Secretary for the Office of Postsecondary Education (end date of search associated with FOIA request number 18-00235-F, through the date of the search)
 - Carlos G. Muñiz (January 20, 2017, through the date of the search)
 - James Blew (July 17, 2018, through the date of the search)
 - Frank Brogan (June 25, 2018, through the date of the search)
 - Peter Oppenheim (August 3, 2017, through the date of the search)
 - Adam Kissel (January 20, 2017, through the date of the search)
 - Kent Talbert (January 23, 2018, through the date of the search)

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and

meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

25. Education assigned the request tracking number 19-00157-F.
26. On October 31, 2018, American Oversight agreed to accept calendar productions from Education in “intermediate” format for current employees, and “memo” format for former employees.
27. American Oversight has received no further communication from Education regarding the processing of its FOIA request.

EPA Calendars FOIA

28. On October 17, 2018, American Oversight submitted a FOIA request to EPA seeking the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below.
 - Scott Pruitt (March 1, 2018, through the date of the search)
 - Andrew Wheeler (April 12, 2018, through the date of the search)
 - Ryan Jackson (June 14, 2018, through the date of the search)
 - Byron Brown (March 1, 2018, through the date of the search)
 - Nancy Beck (March 1, 2018, through the date of the search)
 - Charlotte Bertrand (March 1, 2018, through the date of the search)For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.
2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined EPA through the date the search is conducted:
 - Brittany Bolen (March 1, 2018, through the date of the search)
 - Bill Wehrum
 - Tate Bennett

- Helena Wooden-Aguilar (date of start as Acting Deputy Chief of Staff through the date of the search)

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

29. EPA assigned the request tracking number EPA-HQ-2019-000587.

30. On October 30, 2018, EPA informed American Oversight that it had determined that the request did not reach the minimum billable amount and thus no charges would be associated in processing the request.

31. American Oversight has received no further communication from EPA regarding the processing of its FOIA request.

DOJ Calendars FOIA

32. On October 17, 2018, American Oversight submitted a FOIA request to DOJ seeking the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):

- Jeff Sessions
- Rod Rosenstein
- Matthew Whitaker

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):

- Gene Hamilton
- Beth Williams

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and

meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please provide all responsive records from the date each custodian joined DOJ through the date the search is conducted.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

33. DOJ’s Office of the Attorney General (OAG) assigned the request tracking number DOJ-2019-000325.

34. DOJ’s Office of the Deputy Attorney General (ODAG) assigned the request tracking number DOJ-2019-000778.

35. DOJ’s Office of Legal Policy (OLP) assigned the request tracking number DOJ-2019-000779.

36. DOJ’s Office of Information Policy (OIP) assigned the request tracking number DOJ-2019-000893.

37. On November 15, 2018, OIP advised American Oversight that DOJ would extend its time to respond to the FOIA request by ten days due to “unusual circumstances,” per 5 U.S.C. 552 § (a)(6)(B)(i)-(iii).

38. American Oversight has received no further communication from DOJ regarding the processing of its FOIA request.

DHS Calendars FOIA

39. On October 17, 2018, American Oversight submitted a FOIA request to DHS seeking the following records:

All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined DHS through the date the search is conducted:

- Kirstjen Nielsen
- Claire M. Grady (end date of search associated with FOIA reference number 2018-HQFO-00170, through the date of the search)
- Scott Krause (end date of search associated with FOIA reference number 2018-HQFO-00170, through the date of the search)
- Chad Wolf (end date of search associated with FOIA reference number 2018-HQFO-00170, through the date of the search)
- Anyone who has served as Deputy Chief of Staff to the Chief of Staff (end date of search associated with FOIA reference number 2018-HQFO-00170, through the date of the search)
- Kaitlin Vogt Stoddard
- Gene Hamilton
- Christina Bobb
- Julie Kirchner
- Dimple Shah
- Bradley Hayes
- Anyone who has served as White House Liaison since January 20, 2017

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

40. To American Oversight's knowledge, DHS has not assigned the request a tracking number.

41. American Oversight has received no communication from DHS regarding the processing of its FOIA request.

CBP Calendars FOIA

42. On October 17, 2018, American Oversight submitted a FOIA request to CBP seeking the following records:

All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):

- Kevin McAleenan
- Ronald Vitiello
- Carla Provost
- Bradley Hayes

- Anyone who has served as White House Liaison since January 20, 2017

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

Please provide all responsive records from the date each custodian joined CBP through the date the search is conducted.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

43. CBP assigned the request tracking number CBP-2019-004292.

44. American Oversight has received no further communication from CBP regarding the processing of its FOIA request.

ICE Calendars FOIA

45. On October 17, 2018, American Oversight submitted a FOIA request to ICE seeking the following records:

All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):

- Thomas Homan
- Ronald Vitiello
- Jon Feere
- Barbara Gonzalez
- Anyone who has served as White House Liaison since January 20, 2017

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

Please provide all responsive records from the date each custodian joined ICE through the date the search is conducted.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

46. ICE assigned the request tracking number 2019-ICFO-21657.

47. On November 29, 2018, ICE advised American Oversight via email that it considered the request to not be reasonably described as written and that ICE required a reasonable description of the records sought. ICE stated, however, that it was not denying American Oversight's request.

48. On November 30, 2018, American Oversight clarified via email why its request is not overly broad but instead describes the records sought in sufficient detail to enable ICE personnel to locate them with a reasonable amount of effort.

49. American Oversight has received no further communication from ICE regarding the processing of its FOIA request.

USCIS Calendars FOIA

50. On October 17, 2018, American Oversight submitted a FOIA request to USCIS seeking the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):
 - L. Francis Cissna
 - Kaitlin Vogt Stoddard
 - Anyone who has served as White House Liaison since January 20, 2017

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for the following individual, including any calendars maintained on his behalf (e.g., by an administrative assistant):
 - Robert Law

For this individual, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and meeting titles, such as the "Daily" format used by Microsoft Outlook or a similar format.

Please provide all responsive records from the date each custodian joined USCIS through the date the search is conducted.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-

issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

51. USCIS assigned the request tracking number NRC2018159518.

52. American Oversight has received no further communication from USCIS regarding the processing of its FOIA request.

DOI Calendars FOIA

53. On October 17, 2018, American Oversight submitted a FOIA request to DOI seeking the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined DOI through the date the search is conducted:

- Ryan Zinke (November 1, 2017, through the date of the search)
- Gary Lawkowski
- Scott Hommel (July 3, 2018, through the date of the search)
- Lori Mashburn
- David Bernhardt (November 1, 2017, through the date of the search)

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined DOI through the date the search is conducted:

- Casey Hammond
- Scott Cameron
- Katherine MacGregor
- Downey Magallanes (March 14, 2018, through the date of the search)
- Scott Angelle
- Andrea Travnicek
- Todd Willens
- Todd Wynn
- Rick May
- Doug Domenech
- Vincent DeVito

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and

meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

54. DOI assigned the request tracking number OS-2019-00079.

55. On February 15, 2019, DOI advised American Oversight via email that Scott Angelle’s calendars are in the custody of DOI’s Bureau of Safety and Environmental Enforcement (BSEE) and would require a separate FOIA request to BSEE.

56. American Oversight has received no further communication from DOI regarding the processing of its FOIA request.

HHS Calendars FOIAs

57. On October 17, 2018, and February 27, 2019, American Oversight submitted two FOIA requests to HHS.

58. The first FOIA request to HHS sought the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined HHS through the date the search is conducted:
 - Alex Azar (May 1, 2018, through the date of the search)
 - Eric Hargan (end date of search associated with FOIA request number 2018-00195-FOIA-OS, through the date of the search)
 - Timothy Clark
 - Mia Palmieri Heck
 - Keagan Lenihan
 - Cecilia Martinez
 - Kristin Skrzycki (end date of search associated with FOIA request number 2018-00195-FOIA-OS, through the date of the search)
 - Sarah Lloyd Stevenson
 - Margaret Wynne

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined HHS through the date the search is conducted:

- Juanita Balenger
- Mary Sumpter Lapinski
- Lance Leggitt (end date of search associated with FOIA request number 2018-00195-FOIA-OS, through the date of the search)
- Beth Nelson
- Nina Schaefer
- Paula Stannard

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

59. The second FOIA request to HHS sought the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):

- Brett Giroir
- Jerome Adams
- Scott Lloyd

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):

- Valerie Huber
- Charmaine Yoest
- Theresa Manning

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please provide all responsive records from the date each custodian joined HHS through the date the search is conducted.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

60. To American Oversight’s knowledge, HHS has not assigned either request a tracking number.

61. American Oversight has received no communication from HHS regarding the processing of either FOIA request.

ACF Calendars FOIAs

62. On October 17, 2018 and February 27, 2019, American Oversight submitted two FOIA requests to ACF.

63. The first FOIA request to ACF sought the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):

- Clarence Carter
- Edward Scott Lloyd
- Pedro Moreno

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):

- Anna Pilato
- Mary Powers

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please provide all responsive records from the date each custodian joined ACF through the date the search is conducted.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

64. ACF assigned this request tracking number 19-F-0036.

65. The second FOIA request to ACF sought the following records:

All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant):

- Scott Lloyd
- Jonathan Hayes
- Lynn Johnson

American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

Please provide all responsive records from the date each custodian joined ACF through the date the search is conducted.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

66. To American Oversight's knowledge, ACF has not assigned this request a tracking number.

67. American Oversight has received no further communication from HHS regarding the processing of either FOIA request.

HUD Calendars FOIA

68. On October 17, 2018, American Oversight submitted a FOIA request to HUD seeking the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined HUD through the date the search is conducted:
 - Ben Carson Sr. (December 1, 2017, through the date of the search)
 - Leonard Wolfson
 - Seth Appleton

- Deana “Deidre” Bass (end date of search associated with FOIA request number 18-FI-HQ-00218, through the date of the search)
- Robert Bowes
- Alfonso Costa, Jr.
- Sheila Greenwood (end date of search associated with FOIA request number 18-FI-HQ-00218, through the date of the search)
- Pamela Patenaude (end date of search associated with FOIA request number 18-FI-HQ-00218, through the date of the search)
- Andrew Hughes
- Maren Kasper
- Lynne Patton
- Dana Wade

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. Please provide all responsive records from the date each custodian joined HUD through the date the search is conducted:

- Mason Alexander
- Christopher Bourne
- Michael Bright
- David Byrd
- Matthew Hunter
- Robert Hunter Kurtz
- Michael Marshall
- Michael Nason
- William Russell
- Richard Youngblood

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

69. HUD assigned the request tracking number 19-FI-HQ-00104.
70. American Oversight has received no further communication from HUD regarding the processing of its FOIA request.

State Calendars FOIAs

71. On October 17, 2018, American Oversight submitted a FOIA requests to State seeking the following records:

1. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined State through the date the search is conducted:

- Mike Pompeo
- John Sullivan (November 1, 2017, through the date of the search)
- Nikki Haley (November 1, 2017, through the date of the search)
- Ulrich Brechbuhl
- Brian Hook
- John Zadrozny
- Andrew Veprek

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

2. All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined State through the date the search is conducted:
 - Anyone who has served as Chief of Staff to the Secretary (April 1, 2018, through the date of the search)
 - Anyone who has served as Deputy Chief of Staff to the Secretary since January 20, 2017
 - Heather Nauert
 - Brian Bulatao
 - Kiron Skinner
 - Carrie Cabelka

For these individuals, American Oversight does not need the records to be produced in a format that includes all invitees, notes, and attachments. Rather, American Oversight seeks only a format that includes dates, times, and meeting titles, such as the “Daily” format used by Microsoft Outlook or a similar format.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

72. State assigned the request tracking number F-2019-00562.

73. American Oversight has received no further communication from State regarding the processing of its FOIA request.

Treasury Calendars FOIA

74. On October 17, 2018, American Oversight submitted a FOIA request to Treasury seeking the following records:

All calendars or calendar entries for any of the following individuals, including any calendars maintained on behalf of these individuals (e.g., by an administrative assistant) for the date ranges provided below. If no date range is specified, please provide all responsive records from the date each custodian joined Treasury through the date the search is conducted:

- Stephen Mnuchin (end date of search associated with FOIA request number 2017-11-016, through the date of the search)
- Eli Miller (end date of search associated with FOIA request number 2017-11-016, through the date of the search)
- Justin Muzinich (February 27, 2017, through the date of the search)
- John Baylor Myers
- Alden Wood

For these individuals, American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments.

Please do not limit your search to Outlook calendars. We request the production of any document—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

75. Treasury assigned the request tracking number 2018-10-136.

76. American Oversight has received no further communication from Treasury regarding the processing of its FOIA request.

Exhaustion of Administrative Remedies

77. As of the date of this Complaint, Defendants have failed to (a) notify American Oversight of a final determination regarding the requests, including the full scope of any responsive records Defendants intend to produce or withhold and the reasons for any withholdings; or (b) produce the requested records or demonstrate that the requested records are lawfully exempt from production.

78. Through Defendants' failure to respond to American Oversight's FOIA requests within the time period required by law, American Oversight has constructively exhausted its administrative remedies and seeks immediate judicial review.

COUNT I
Violation of FOIA, 5 U.S.C. § 552
Failure to Conduct Adequate Searches for Records

79. American Oversight repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

80. American Oversight properly requested records within the possession, custody, and control of Defendants.

81. Defendants are subject to FOIA, and they must therefore make reasonable efforts to search for requested records.

82. Defendants have failed to promptly review agency records for the purpose of locating those records that are responsive to American Oversight's FOIA requests.

83. Defendants' failure to conduct adequate searches for responsive records violates FOIA and agency regulations.

84. Plaintiff American Oversight is therefore entitled to injunctive and declaratory relief requiring Defendants to promptly make reasonable efforts to search for records responsive to American Oversight's FOIA requests.

COUNT II
Violation of FOIA, 5 U.S.C. § 552
Wrongful Withholding of Non-Exempt Responsive Records

85. American Oversight repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

86. American Oversight properly requested records within the possession, custody, and control of Defendants.

87. Defendants are subject to FOIA, and they must therefore release in response to a FOIA request any non-exempt records and provide a lawful reason for withholding any materials.

88. Defendants are wrongfully withholding non-exempt agency records requested by American Oversight by failing to produce non-exempt records responsive to its FOIA requests.

89. Defendants are wrongfully withholding non-exempt agency records requested by American Oversight by failing to segregate exempt information in otherwise non-exempt records responsive to American Oversight's FOIA requests.

90. Defendants' failure to provide all non-exempt responsive records violates FOIA and agency regulations.

91. Plaintiff American Oversight is therefore entitled to declaratory and injunctive relief requiring Defendants to promptly produce all non-exempt records responsive to its FOIA requests and provide indexes justifying the withholding of any responsive records withheld under claim of exemption.

REQUESTED RELIEF

WHEREFORE, American Oversight respectfully requests the Court to:

- (1) Order Defendants to conduct a search or searches reasonably calculated to uncover all records responsive to American Oversight's FOIA requests;
- (2) Order Defendants to produce, within twenty days of the Court's order, or by such other date as the Court deems appropriate, any and all non-exempt records responsive to American Oversight's FOIA requests and indexes justifying the withholding of any responsive records withheld under claim of exemption;
- (3) Enjoin Defendants from continuing to withhold any and all non-exempt records responsive to American Oversight's FOIA requests;

- (4) Award American Oversight the costs of this proceeding, including reasonable attorneys' fees and other litigation costs reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (5) Grant American Oversight such other relief as the Court deems just and proper.

Dated: April 1, 2018

Respectfully submitted,

/s/ Hart W. Wood

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